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Message Text

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ORIGIN NEA-12

INFO OCT-01 ISO-00 TRSE-00 EB-11 L-03 ABF-01 AID-20 FS-01

AGR-20 A-01 CIAE-00 COME-00 FRB-02 INR-10 NSAE-00

RSC-01 XMB-07 OPIC-12 SPC-03 CIEP-02 LAB-06 OMB-01

IGA-02 SS-20 NSC-10 DODE-00 PA-04 USIA-15 PRS-01 CU-04

FBO-01 INRE-00 NSCE-00 SSO-00 /171 R

DRAFTED BY NEA/L:ATBROWN/NEA:INS:DWBORN:MRC
APPROVED BY NEA:LBLAINGEN
TREAS:SCANNER (SUBS)
EB/IFD:SWEINTRAUB (SUBS)
---------- 034976
O 200226Z NOV 73
FM SECSTATE WASHDC
TO AMEMBASSY NEW DELHI IMMEDIATE

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E.O. 11652: N/A
AGS: EFIN, IN
SUBJECT: RUPEE DISCUSSIONS: CONVERSIONS AND MOV

REF: (A) NEW DELHI 13392; (B) STATE 227678

1. CONVERSIONS. SUGGEST REVISION OF LANGUAGE IN PARA 3 OF STATE 227678 BY ADDING A SECOND PROVISO TO READ: ";AND FURTHER PROVIDED, THAT IF ON ANY CONVERSION DATE THE APPLICABLE EXCHANGE RATE CANNOT BE ASCERTAINED UNDER THE RULES AND REGULATIONS OF THE RESERVE BANK OF INDIA, THE APPLICABLE RATE SHALL BE THE RATE, LEGALLY AVAILABLE IN INDIA ON SUCH DATE TO INDIAN NATIONALS, WHICH REQUIRES THE SMALLEST NUMBER OF INDIAN RUPEES FOR THE PURCHASE OF UNITED STATES DOLLAR.

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2. MOV. WE STILL HAVE PROBLEMS HERE, BOTH SUBSTANTIVE

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AND PROCEDURAL. THE SUBSTANTIVE PROBLEMS INCLUDE, INTER ALIA, THE POSSIBILITY THAT HE LANGUAGE YOU HAVE PUT FORWARD WOULD PERMIT, UNDER CERTAIN ASSUMPTIONS, ADJUSTMENTS INVOLVING WITHDRAWALS OF RUPEES FROM THE US RETAINED RUPEES. IN FACT, THERE IS EVEN THE THEORETICAL POSSIBILITY THAT WE WOULD RETURN RUPEES TO INDIA IF THE EXCHANGE RATE WERE TO FALL FROM THAT IN FORCE AT THE TIME THE AGREEMENT IS SIGNED (SAY RUPEES 7.5 EQUALS DOLLAR ONE) TO SOME LOWER LEVEL (SAY RUPEES 7.0 EQUALS DOLLAR ONE); THEREBY GIVING USG LESS THAN RUPEES 7,500 MILLION. THE PROCEDURAL

PROBLEMS INCLUDE, INTER ALIA, THE FACT WE STILL DO NOT HAVE THE EXACT TEXT OF ANNEX VIII NOW RPT NOW WITH PM'S OFFICE. THIS MESSAGE DESCRIBES OUR VIEW OF THE AMBIGUITIES IN YOUR LANGUAGE AND SUGGESTS THAT IT MAY BE USEFUL TO ALERT THE INDIANS AT ONCE TO OUR NEED TO INTERPRET OR AMEND LANGUAGE GIVEN THEM, BECAUSE THAT LANGUAGE WILL NOT RPT NOT OTHERWISE BE ACCEPTABLE HERE.

3. REVERSIBILITY OF MOV. THE TERM "ANY NECESSARY ADJUSTMENT" CAN BE INTERPRETED TO MEAN THAT THE RUPEE BALANCE WOULD BE ADJUSTED UP OR DOWN DEPENDING ON THE CHANGE IN THE EXCHANGE RATE. WE DID NOT RPT NOT WANT THE ACCOUNT TO BE ADJUSTED DOWNWARD. THE MOV PROVISIONS IN THE ORIGINAL LOAN AGREEMENTS PROTECTED US FROM RUPEE DEVALUATION AND WERE NOT RPT NOT REVERSABLE. THIS IS A MAJOR FACET OF THE MOV PROBLEM AND THE LANGUAGE DESCRIBING THE MOV MECHANISM MUST BE UNEQUIVOCAL ON THIS POINT, IF IT IS TO BE ACCEPTED HERE. WE SPECIFICALLY COVERED THIS POINT IN OUR ORIGINAL INSTRUCTIONS (PARA 1B STATE 134136).

4. WE SEE FOLLOWING AMBIGUITIES IN EMBASSY MOV FORMULA REFERRED TO IN REF B, PARAGRAPH 1:

A. DOES "ANY NECESSARY ADJUSTMENT" INCLUDE DEDUCTIONS FROM RUPEE ACCOUNT TO REFLECT STRENGTHENING OF RUPEE VIS A VIS THE DOLLAR?

B. IF NOT, THIS SHOULD BE SPECIFIED;

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C. IF SO, WOULD SUCH DEDUCTIONS REFLECT STRENGTHENING OF RUPEE EVEN BEYOND RATE IN EFFECT ON DATE OF AGREEMENT? I.E. COULD USG END UP WITH LESS THAN RUPEES SEVEN BILLION FIVE HUNDRED MILLION?

D. HOW ARE THE ADJUSTMENTS ACTUALLY CALCULATED IN VIEW OF THE AVERAGE DAILY RATE FORMULA? SUPPOSE CHANGE OF RATE FROM RUPEES 7.5 TO 10.5 EQUALS ONE DOLLAR EFFECTIVE

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LAST DAY OF ELEVENTH MONTH AFTER EXECUTION DATE. THE YEAR-END DAILY AVERAGE RATE WOULD THEN BE 7.75:1 AND, BY EMBASSY FORMULA, GOI WOULD ADD 125 MILLION RUPEES TO RUPEE ACCOUNT ON FIRST ANNIVERSARY DATE OF AGREEMENT (I.E., 7.75 TIMES 500 MILLION LESS 7.5 TIMES 500 MILLION). ASSUMING EXCHANGE RATE REMAINS CONSTANT THEREAFTER, WHAT ADJUSTMENT, IF ANY, IS MADE ON SECOND AND FOLLOWING ANNIVERSARY DATES?

E. IF NO FURTHER ADJUSTMENT IS MADE, THE USG WILL HAVE RECEIVED A TOTAL, OVER THE 10 YEAR PERIOD, OF 125 MILLION ADDITIONAL RUPEES, OR 3.3 PER CENT OF THE 3,750

MILLION RUPEES WE STARTED WITH (CALCULATED AT THE ORIGINAL RATE), EVEN THOUGH THERE WAS A 40 PER CENT DEVALUATION IN EFFECT FOR MORE THAN 9 YEARS OF THE 10-YEAR PERIOD.

F. THE LANGUAGE OF THE EMBASSY FORMULA DOES NOT SPECIFICALLY REQUIRE A FURTHER ADJUSTMENT ON THE SECOND AND FOLLOWING ANNIVERSARY DATES IF THERE ARE NO FURTHER EXCHANGE RATE CHANGES. HOWEVER, IF SOME FURTHER ADJUST-MENT IS ANTICIPATED (AS WOULD SEEM NECESSARY FROM THE FOREGOING), HOW ARE THOSE ADJUSTMENTS CALCULATED?

G. THE ABOVE PROBLEMS SEEM EVEN MORE COMPLEX IF THERE ARE SUBSEQUENT CHANGES IN THE EXCHANGE RATE.

5. WHAT NEXT. WE NOW RPT NOW HAVE SITUATION WHERE GOI MAY AT ANY MOMENT ACCEPT AT HIGHEST LEVEL LANGUAGE WHICH AS YOU KNOW WAS NOT DRAFTED OR CLEARED HERE AND WHICH WILL NOT RPT NOT SURVIVE AD REFERENDUM EXAMINATION HERE. BELIEVE BEST COURSE MAY BE TO OFFER GOI A USG INTER-
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PRETATION OF MOV LANGUAGE NOW RPT NOW UNDER CONSIDERATION BY GOI. IT HARD FOR US OFFER YOU EXACT LANGUAGE, PARTLY AS WE DO NOT RPT NOT YET HAVE ANNEX VIII.

6. WE WOULD WELCOME EMBASSY COMMENTS AND/OR PROPOSALS, BY PHONE OR TELEGRAM, DESIGNED MEET OUR PROBLEM. WE, AT THIS END, ARE NOW RPT NOW WORKING ON POSSIBLE REVISIONS TO EMBASSY FORMULATION AND ALTERNATE FORMULATION INTENDED TO MEET PROBLEMS DESCRIBED ABOVE. WE HOPE TO BE IN POSITION TRANSMIT THESE SUGGESTIONS BY COB NOV. 20. KISSINGER

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